

IN THE UNITED STATES DISTRICT COURT
FOR THE Northern DISTRICT OF TEXAS
Dallas DIVISION

Form To Be Used By A Prisoner in Filing a Complaint
Under the Civil Rights Act, 42 U.S.C. § 1983

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED
MAY 12 PM 12:32

DEPUTY CLERK

Antwan D. McKnight

Plaintiff's name and ID Number

Sander-Estes Unit

Place of Confinement

3-15CV-1647K

CASE NO:

(Clerk will assign the number)

v.

M.T.C./Deputy Warden "Wiktorik"

Defendant's name and address

Major Tunaitis/Sgt. Swinford

Defendant's name and address

M.T.C. Corporate, 500 N. Market Place Drive, Centerville, Utah, 84014

Defendant's name and address

(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the Clerk of the United States Court for the appropriate District of Texas in the Division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. The list labeled as "VENUE LIST" is posted in your unit law library. It is a list of Texas prison units indicating the appropriate District Court, the Division and an address of the Divisional Clerks.

1. In order for your complaint to be filed, it must be accompanied by the filing fee of \$350.00.
2. If you do not have the necessary funds to pay the filing fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis* (IFP), setting forth the information to establish your inability to prepay the fees and costs or give security therefore. You must also include a six (6) month history of your Inmate Trust Account. You can acquire the application to proceed IFP and appropriate Inmate Account Certificate from the law library at your prison unit.
3. 28 U.S.C. 1915, as amended by the Prison Litigation Reform Act of 1995 (PLRA), provides, "...if a prisoner brings a civil action or files and appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." Thus, the Court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the Court will apply 28 U.S.C. 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your Inmate Account, until the entire \$350 filing fee has been paid.
4. If you intend to seek *in forma pauperis* status, then do not send your complaint without an Application to Proceed IFP, and the Certificate of Inmate Trust Account. Complete all the essential paperwork before submitting it to the Court.

CHANGE OF ADDRESS

It is your responsibility to inform the Court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motions(s) for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedures.

I. PREVIOUS LAWSUITS:

- A. Have you filed any other lawsuits in the state or federal court relating to imprisonment? _____ YES ☒ NO
- B. If your answer to "A" is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: N/A
 2. Parties to previous lawsuit:
Plaintiff(s): N/A
Defendant(s): N/A
 3. Court (If federal, name the district; if state, name the county) N/A
 4. Docket Number: N/A
 5. Name of judge to whom case was assigned: N/A
 6. Disposition: (Was the case dismissed, appealed, still pending?)
N/A
 7. Approximate date of disposition: N/A

II. PLACE OF PRESENT CONFINEMENT: Sanders-Estes Unit

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted both steps of the grievance procedure in this institution? ☒ YES ☐ NO

Attach a copy of the Step 2 grievance with the response supplied by the prison system.

IV. PARTIES TO THE SUIT:

A. Name of address of plaintiff: 1100 Hwy 1807, Venus, Texas, 74084

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Management and Training Corporation (M.T.C.) Private Contractor for Texas Department of Criminal Justice (T.D.C.J.)

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

"RLUIPA" issue-violated my civil rights and my rights to "due process"

Defendant #2: Major "Tunaitis" employee/agent of M.T.C.

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

"RLUIPA" issue-refused religious request to be moved from active homosexual offender.

Defendant #3: Sgt. Swinford employee/agent of M.T.C.

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

"RLUIPA" issue-imposed segregation and disciplinary action because of my religious belief.

Defendant #4: Deputy Warden "Wiktorik"

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

"RLUIPA" issue-imposed sanctions against my religious freedoms and violation of my "due process."

Defendant #5: B. Parker (Regional Director) of Texas Department of Criminal Justice.

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

"RLUIPA" issue-rejected my religious complaint in step 2 grievance

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal argument or cite any cases of statutes. If you intent to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember that the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

on 3-3-2015, an "active homosexual" was being moved into my cell. This individual was in fact involved in homosexual activity on this unit. I was here on the Sanders Estes unit 5 days when this incident occurred in A cell #2. I went to talk to the Major Tunaitis about my religious belief and my concerns about my human dignity. He simply told me "NO, he wasn't moving me." when I refused to cell-up with the active homosexual, the "Major" told Sgt. Swinford to lock me up. I was then placed in segregation. The next day I tried to explain to Deputy Warden "Wiktorik" about my religious obligation to honor my God and maintain my human dignity, he then told the Major to move me and give me a Major disciplinary report, case #20150188810. Deputy Warden "Wiktorik" was the hearing (Page Attached)

VI. RELIEF: State briefly exactly what you want the court to do for you. Make no legal arguments. Cite not cases or statutes.

I am requesting "Monetary" and "Punitive" damages for the mental anguish and taking away my parole eligibility date.

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases:

Antwan Deshay McKnight

B. List all TDCJ-ID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you, if know to you.

#1764431

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ☐ YES ☒ NO

B. If your answer is "yes", give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (If federal, give district and division): N/A

2. Case Number: N/A

3. Approximate date sanctions were imposed: N/A

4. Have the sanctions been lifted or otherwise satisfied? ☐ YES ☐ NO

officer in case #201501888/2. He imposed penalties and sanctions against me, because of my religious freedom and obligation to my God.

I filed a step #1 grievance against his judgement and on 4-8-2015, I received my step #1 grievance #2015/06759 with Deputy warden "Wiktorik" signature on the grievance I filed against him.

(1). Wiktorik confiscated my grievance I filed against him and responded to my complaint against his own judgement...and therefore, violating my right to "due process" and/or my right to a "fair and impartial" hearing to my complaint.

(2). I was being forced by Major "Tunaitis" and the deputy warden "Wiktorik" to violate my civil rights and/or my religious freedoms or receive a major case that imposed penalties that affected my parole eligibility.

(3). I was also being forced by Major "Tunaitis" and deputy warden "Wiktorik" to violate "my human conscience", by forcing me into a cell with an active homosexual or receive a major case and therefore placing a "substantial burden" on my civil rights/human rights.

(4). I received step #2 grievance on 5-1-2015 (grievance #2015/06759) during Mail call.

Sincerely Submitted
Antwan McKnight



Texas Department of Criminal Justice

STEP 2

OFFENDER
GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: 2015106759
 UGI Recd Date: 04-09-2015
 HQ Recd Date: APR 13 2015
 Date Due: 5-9
 Grievance Code: 400
 Investigator ID #: 171
 Extension Date: _____

Offender Name: Antwan McKnight TDCJ# 1764431
 Unit: ESTES Housing Assignment: A-15-8127
 Unit where incident occurred: N-2 cell

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be specific). I am dissatisfied with the response at Step 1 because...
 The reason for my appeal is because I believe that the response that was given by Assistant warden Wiktorik was in fact, unfair and prejudicial. Assistant warden Wiktorik told the major to give me a major case, then he gave me the penalties on the case #201501888/2 and when I filed a Step #1 grievance, assistant warden Wiktorik also responded to my Step #1 grievance #2015106759. The entire process was in fact "unjust", prejudicial and the violation of my rights to due process under federal law that guarantees my rights to fairness and impartiality. Furthermore, to be "forced" into a cell with an active homosexual that is involved in homosexual activity on this unit is also a violation of my religious rights and a violation of my rights to maintain my personal human dignity. The major "Tunaitis" and the Assistant warden Wiktorik have trampled on my civil and human rights by trying to force me into a cell with a guy that was actively involved in homosexual behavior and when I refused based on those conditions I received a major case. Again, I should not - as a human being, be "forced" to expose myself to the homosexual behavior of another person in any way - directly or indirectly, especially if it violates my religious freedom(s) and my human conscience.

I am requesting that case #201501888/2 be fairly and impartially assessed by the regional director and because of the "mitigating" circumstances - that the major case against me be dismissed.

People have a right to their sexual preference and such a right should not

be forced upon another where a person's religious freedoms and human
consent may differ. Furthermore, such a situation could easily create an
"unsafe environment" within a closed cell and/or become a security threat for
the institution. Again, based on the mitigating circumstances and the nature of
these events, I am requesting relief from Case #20150188812 APR 09 2015

Offender Signature: Antwa McKnight

Date: 4-8-2015

Grievance Response:

A review of Disciplinary Case #20150188812 has been completed. There was sufficient evidence presented to sustain the charge and the finding of guilt. Records indicate that the hearing was conducted per policy and there were no due process or procedural errors noted. The punishment was within Agency guidelines for this offense. No further action warranted by this office.

Signature Authority:

B. PARKER

Date:

APR 15 2015

Returned because: *Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language
- ☐ 6. Inappropriate. *

GO Staff Signature: _____

OFFICE USE ONLY

Initial Submission CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

D. If your answer is "yes", give the following information for every lawsuit in which warning was imposed.
(If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed warning (if federal, give the district and division): N/A
2. Case number: N/A
3. Approximate date warning were imposed: N/A

Executed on: 5-5-2015
(Date)

Antwan McKnight
(Printed Name)

Antwan McKnight
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachment thereto are true and correct.
2. I understand if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand that I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions in a Court of the United States while incarcerated or detained in any facility, which lawsuits are dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger or serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire **\$350** filing fee and costs assess by the Court, which shall be deducted in accordance with the law from the inmate account by my custodian until the filing fee is paid.

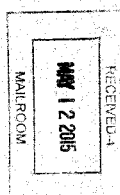
Signed this 5th day of May, 20 15.
(Day) (Month) (Year)

Antwan McKnight
(Printed Name)

Antwan McKnight
(Signature of Plaintiff)

WARNING: The Plaintiff is hereby advised any false or deliberately misleading information provided in response to the following questions will result in the imposition of sanctions. The sanctions the Court may impose include, but are not limbed to monetary sanctions and/or the dismissal of this action with prejudice.

Austin mckinist #1764431
Sandreas-Estes unit
1100 Hwy 1807
Venus, Texas 76084



- Special -



U.S. District Clerk Office
1100 Commerce St Rm 714
Dallas, Texas, 75242